

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

K.A.,

Plaintiff,

vs.

MINDGEEK S.A.R.L. a foreign entity;  
MG FREESITES, LTD., a foreign  
entity; MINDGEEK USA  
INCORPORATED, a Delaware  
corporation; MG PREMIUM LTD, a  
foreign entity; MG GLOBAL  
ENTERTAINMENT INC., a Delaware  
corporation; 9219-1568 QUEBEC,  
INC., a foreign entity; BERND  
BERGMAIR, a foreign individual;  
FERAS ANTOON, a foreign individual;  
DAVID TASSILLO, a foreign  
individual; VISA INC., a Delaware  
corporation; REDWOOD CAPITAL  
MANAGEMENT, LLC, a Delaware  
limited liability company; REDWOOD  
DOE FUNDS 1-7; COLBECK  
CAPITAL MANAGEMENT, LLC, a  
Delaware company, COLBECK DOE  
FUNDS 1-3,

Defendants.

CASE NO. 2:24-cv-04786-WLH-ADS

**[PROPOSED] ORDER GRANTING  
DEFENDANT REDWOOD  
CAPITAL MANAGEMENT, LLC'S  
MOTION TO DISMISS  
COMPLAINTS IN RELATED  
CASES [ECF NO. 68]**

1 On October 21, 2024, Defendant Redwood Capital Management, LLC  
2 (“Redwood” or “Defendant”) filed a Motion to Dismiss the individual Complaints  
3 filed by Plaintiffs A.K., W.P., L.S., W.L., C.S., S.O., J.C., K.A., N.L., T.C., X.N.,  
4 N.Y., L.T., and J.L. (collectively, the “New Plaintiffs”) in cases related to *Fleites v.*  
5 *MindGeek S.A.R.L., et al.*, Case No. 2:21-cv-04920 (C.D. Cal.) (the “Related Cases”),  
6 pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure  
7 (“Rules”).

8 Defendant’s Motion was made pursuant to a Joint Stipulation to Request  
9 Limited Coordination for Purposes of Responding to Complaints in Related Cases  
10 entered in the *Fleites* case (*see* Case No. 2:21-cv-04920, Dkt. 472), whereby the  
11 parties agreed to address the grounds for dismissal on all legal issues implicated by  
12 each of the Related Cases in one omnibus motion to dismiss per Defendant.

13 In its Motion, Redwood seeks dismissal of the claims asserted against it by  
14 New Plaintiffs in the Related Cases under Rule 12(b)(1) on the grounds that New  
15 Plaintiffs lack Article III standing. In particular, Redwood argues that New Plaintiffs  
16 cannot establish the second element of Article III standing, namely that each New  
17 Plaintiff’s injury is fairly traceable to the challenged action of Redwood. *See Friends*  
18 *of the Earth, Inc. v. Laidlaw Env’t Servs. (TOC), Inc.*, 528 U.S. 167, 180-81 (2000)  
19 (identifying the three elements required to satisfy Article III’s standing  
20 requirements); *Jones v. L.A. Cent. Plaza LLC*, 74 F.4th 1053, 1057 (9th Cir. 2023)  
21 (“[A]t the pleadings stage, the plaintiff must allege sufficient facts that, taken as true,  
22 ‘demonstrat[e] each element’ of Article III standing.”) (citing *Spokeo, Inc. v. Robins*,  
23 578 U.S. 330, 338 (2016)).

24 Redwood also seeks dismissal of the claims that New Plaintiffs have asserted  
25 against it in the Related Cases under Rule 12(b)(6). First, Redwood moves to dismiss  
26 the two claims that New Plaintiffs have asserted against them under the Trafficking  
27 Victims Protection Reauthorization Act (“TVPRA”), for beneficiary liability (Count  
28 III of the Complaints) and conspiracy liability (Count IV of the Complaints) on the

1 grounds that the Complaints in each Related Case fail to establish proximate cause.  
2 Next, Redwood moves to dismiss the TVPRA beneficiary liability claim asserted by  
3 New Plaintiffs on the grounds that: (i) the Complaints in the Related cases do not  
4 establish that Redwood “participated in a venture” that harmed any New Plaintiff; (ii)  
5 the Complaints in the Related Cases fail to plausibly allege that Redwood “knew or  
6 should have known” of any New Plaintiff’s sex trafficking; and (iii) beneficiary  
7 liability is not legally available where there is no underlying liability. Redwood  
8 further moves to dismiss the TVPRA conspiracy liability claim asserted by New  
9 Plaintiffs in each Related Case on the grounds that it is barred by controlling Ninth  
10 Circuit law, *Ratha v. Rubicon Res., LLC*, 111 F.4th 946, 969 (9th Cir. 2024) (*Ratha*  
11 *II*), because Redwood’s alleged TVPRA violations predate the 2023 amendment to  
12 the TVPRA that allowed for civil conspiracy liability, and, even if this were not the  
13 case, the New Plaintiffs’ Complaints do not adequately allege any conspiracy  
14 involving Redwood. Furthermore, Section 1595 of the TVPRA also does not apply  
15 extraterritorially in civil litigation to reach injuries and underlying TVPRA violations  
16 that occurred outside of the U.S., mandating dismissal of the TVPRA claims of New  
17 Plaintiffs W.P., C.S., S.O., X.N., L.S., and N.Y., who allege injuries suffered abroad.

18 Redwood also moves to dismiss the hybrid claims pled by New Plaintiffs in  
19 Count XIV of their Complaints for violation of California’s consumer protection  
20 statutes, Cal. Bus. & Prof. Code §§ 17200 (the Unfair Competition Law (“UCL”))  
21 and 17500 (the False Advertising Law (“FAL”)) on standing grounds because New  
22 Plaintiffs cannot show an economic injury caused by any alleged unfair business  
23 practice or false advertising on the part of Redwood. Those New Plaintiffs who are  
24 not California residents (A.K., L.T., J.C., K.A., N.L., T.C., W.P., C.S., S.O., X.N.,  
25 L.S., and N.Y.) also cannot invoke the UCL and/or FAL because none of the alleged  
26 misconduct or injuries occurred in California. New Plaintiffs also fail to state a  
27 UCL/FAL claim on the grounds that: (i) the UCL/FAL claims rest exclusively on  
28 allegations of misconduct by other defendants, which do not apply to Redwood, and

1 the Complaints improperly attempt to shoehorn Redwood into liability under the  
2 generalized category of “Defendant”; (ii) New Plaintiffs do not allege any facts  
3 indicating that Redwood engaged in *any* relevant “competition” or “advertising,” let  
4 alone any such conduct that rises to the level of a violation of these statutes; (iii) the  
5 FAL claims do not satisfy Rule 9(b) and the Complaints do not allege sufficient facts  
6 to show that “members of the public are likely to be deceived” by Redwood, *see*  
7 *Nationwide Biweekly Admin., Inc. v. Super. Ct. of Alameda Cnty.*, 9 Cal. 5th 279, 309  
8 (2020), *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1103-04 (9th Cir. 2003); and  
9 (iv) the Complaints fail to adequately plead a claim under any of the three prongs of  
10 the UCL. Finally, New Plaintiffs’ alternative state law claims, which they plead in  
11 footnotes, fail because they cannot show a deceptive or unfair practice on the part of  
12 Redwood that caused them harm.

13 Further, Redwood moves to dismiss the intentional infliction of emotional  
14 distress (“IIED”) claim that New Plaintiffs assert against it in Count XVI of their  
15 Complaints. As an initial matter, the IIED claims brought by Plaintiffs K.A., L.T.,  
16 N.L., N.Y., X.N., C.S., S.O., W.L., L.S., A.K., and J.L are barred by the applicable  
17 two-year limitation period, because more than two years have passed since the later  
18 of the time these New Plaintiffs allege the discovery of their CSAM online (or when  
19 these Plaintiffs turned 18 years old)—i.e., when the alleged emotional distress  
20 started—and the dates on which these New Plaintiffs filed their complaints.  
21 Additionally, all New Plaintiffs’ allegations are too conclusory and do not separate  
22 out the alleged role of each Defendant. Furthermore, New Plaintiffs do not plead and  
23 cannot show any “extreme and outrageous conduct” *by Redwood* that was intended  
24 to cause emotional distress to New Plaintiffs, let alone “conduct so extreme and  
25 outrageous as to go beyond all possible bonds of decency.” Nor can New Plaintiffs  
26 show that Redwood’s conduct was directed towards them, or that their severe  
27 emotional distress was actually and proximately caused by Redwood.  
28

1 Finally, Redwood moves to dismiss the civil conspiracy claim that New  
2 Plaintiffs assert against it in Count XVII of the Complaints in the Related Cases  
3 because those Complaints (i) do not adequately allege the elements of a civil  
4 conspiracy; and (ii) have not adequately pled any underlying tort because Redwood,  
5 as a lender to third parties other than New Plaintiffs, owes no duty to any New  
6 Plaintiff.

7 The Court, having considered Redwood's Motion to Dismiss, and all papers  
8 filed in support of and in opposition to Redwood's Motion, oral arguments of counsel,  
9 and all other pleadings and papers on file herein, and finding good cause therefor,  
10 hereby GRANTS the Motion and ORDERS as follows:

- 11
- 12 1. Pursuant to Fed. R. Civ. P. Rule 12(b)(1), the Related Cases against  
13 Redwood are hereby **DISMISSED WITH PREJUDICE**; or
  - 14 2. Pursuant to Fed. R. Civ. P. Rule 12(b)(6), the Related Cases against  
15 Redwood are hereby **DISMISSED WITH PREJUDICE**.

16  
17 **IT IS SO ORDERED.**

18  
19 Dated:

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20 HON. WESLEY L. HSU  
21 UNITED STATES DISTRICT JUDGE  
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